

Horatio Seymour

THE INFLUENCE OF NEW YORK ON AMERICAN
JURISPRUDENCE

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THE INFLUENCE OF NEW YORK ON AMERICAN JURISPRUDENCE

WE cannot feel the full interest of the history of the opening of the new capitol of the State of New York unless we bear in mind the events running through nearly three centuries, which have consecrated the ground on which it stands. There is no place in the Union which is associated with so many varied and far-reaching facts, which have influenced the destinies of this continent, as the city of Albany. For more than two hundred and fifty years the flags of Holland, of Britain, or of the American Union have waved over it. Before our Independence they were hung out upon the battlements of forts, built there to guard against savage foes or to resist the invasions of the armies of France or of Britain during the French or revolutionary wars. From its earliest settlement to the present day, under all governments, what has been done at this point has concerned not alone its citizens, or those of this province or State, but the people of all the colonies which entered into our Union, and in no small degree nearly all sections of this great continent. A glance at its history will show that Albany was in fact the colonial capital; the point at which councils were held, treaties were made, armies were organized. It was the base from which they moved upon hostile regions; it was the point which in all wars our enemies sought to conquer. It was not an accidental thing that the project of a union between the colonies was first put in form in Albany by Benjamin Franklin in 1754. The seeds of that conception were sown many years before, and slowly but surely germinated under the influence of events constantly occurring within the province of New York. Albany has been justly termed the birthplace of the Union; not on account of some accidental gathering, or bold conception of a leading mind. A long series of events had made for many purposes a practical union of the colonies. The citizens who had

lived for half a century under the flag of Holland, had been taught the value of the maxim which bound its provinces into one nationality—*"In unity there is strength."* It was at this point that the agents of the colonies on the Atlantic coast first learned about the interior of the continent and its systems of lakes and rivers. These taught them that the people who lived upon their banks and courses should be united by some bond of union which would give them not only the benefit of united strength, but freedom of intercourse and benefits of commerce.

When in 1609, Hendrick Hudson, in search of a direct water route from Europe to the eastern shores of Asia, reached the site of Albany, his hopes were blighted on finding that he was ascending a great river and not floating upon an arm of the sea, which would bear him to the Pacific ocean, and crown with success the search to which he had devoted his energies and life. It is a sad thought that in the following year he perished without knowing that he had made a discovery in value far beyond the one which he sought; that what he deemed a failure would give him enduring fame. He did not know that the wind and tides which had swept his ship through the gorge of the highlands had borne it beyond the mountain range, which, for more than a thousand miles, made a barrier between the Atlantic coast and the interior of this continent. He perished, miserably betrayed by his seamen, without the knowledge that the range of hills which he saw from this point, stretching westward through the southern part of this State, was one of the most remarkable watersheds on the face of the earth; that from its northern and southern slopes were poured streams which found outlets in the frozen region of the north or tepid waters of tropical seas. He never knew that the noble stream which gives him enduring fame would be the pathway between the ocean and a system of rivers which are God's bonds of union, holding together all sections of our country in ways more lasting than covenants or constitutions. He did not in the madness of delirium, which weakened nature often brings to hide the horrors of approaching death, imagine anything so wonderful as the fact that he had discovered a valley through which would pass the greatest movements of the human race which history has recorded. Not one which by the invasions of wild hordes, or the march of armies, carried death and desolation in their tracks, but a movement of civilization upon barbarous wastes, which has filled this great continent with arts and commerce, and prosperous towns and cities. If, at a moment when

crushed hopes, cruel treachery and a terrible death overwhelmed him, he could have had but a glimpse of all that followed his discovery of the grand river flowing by the Capital of our State, how would the gloom of despair have brightened into the joy of glorious triumph!

Commercial enterprise followed close upon the discovery of Hudson. Before the character of our Atlantic coast had been learned the Hollanders sent trading ships to the port of Albany, and in 1614 they made a settlement on an island adjoining the lower part of the city. Fort Orange stood upon the bank of the river. To protect the citizens palisades were put up around the settlement, and guard houses built upon the high ground now crowned by the Capitol. This hill, then flanked by deep ravines on either side, and by a steep bluff in front, overhung the site of the city. The foot of this high cliff closed up State street where St. Peter's Church and the Geological Hall now stand. Upon its top, during more than two centuries, have been put up a succession of rude blockhouses, wooden forts, stone fortress, the old Capitol, the vast structure now brought into use, which ranks among the great buildings of the world. It was not until the beginning of this century that the face of the bluff was graded down so that State street could be made an avenue leading to the western part of the city. In 1614 from Nova Scotia to the Spanish forts in Florida lay a wilderness unbroken save by the feeble and disorganized settlement at Jamestown; and as that was afterwards abandoned, Albany is the oldest town and oldest chartered city in the thirteen original States. At the time of Hudson's discovery a large share of the earth's surface was unknown to civilized nations. It was a period in the history of Holland when, in the words of its New England historian, "in every branch of human industry these republicans took the lead." Its navigators were bold and enterprising. When they decided upon a permanent settlement on this continent they did not, like other people, plant themselves upon the seaboard, but boldly pushed through the highlands to the head of navigation and laid the foundation of a city *west of the Allegheny barriers*. This fact has been potent in its influence on the history of our country. They placed themselves upon the pivotal point, upon which so many of its great events were to turn. The flow of the Hudson would bear them to the Atlantic through the very roots of the Alleghenies. The level valleys of the upper Hudson and the Mohawk opened easy pathways to the St. Lawrence on the north, and to the great lakes and tributaries of the Mississippi on the west. We, who are proud of our English descent, must admit that no other people were so well fitted as the Hollanders

to hold this commanding position, and to defeat the designs of the French upon this continent. Their commercial enterprises in every quarter of the world had taught them how to deal with savage tribes. Here they were brought into contact with the Iroquois. This powerful confederacy held control over the country from the coast to the Mississippi and Illinois rivers, and from north of the great lakes to the present State of North Carolina.

Those who have not studied with care the details of our colonial history can have but a faint idea of the power wielded by this Indian Confederacy, or the terror with which they had filled the minds of other tribes. In his exploration in Virginia, Captain Smith was told by the Indians whom he met in that region, that the Iroquois were so powerful that they waged war with the whole world.

Colden says in his history, "I have been told by old men of New England, who remembered the time when the Mohawks made war on their Indians, that as soon as a single Mohawk was discovered in the country these Indians raised a cry from hill to hill, 'A Mohawk, a Mohawk,' upon which they all fled like sheep before wolves, without attempting to make the least resistance, whatever odds were on their side. All the nations around them have for many years entirely submitted to them, and pay a yearly tribute to them in wampum."

For nearly a hundred years the monarchs of France and Britain sought their alliance, and used every subtlety of diplomacy to gain their good will. It was felt upon both sides that these savages held the balance of power. It was only through them that Great Britain could make a claim to any part of the territory of New York west of Rome, or north of the dividing ridge from which flow the waters into the St. Lawrence and the Hudson.

I wish to bring into view those facts in nature and in the course of events which have given our State its prominence in jurisprudence. From the outset, the government of the territories of New York, under all flags, has excelled in this respect, and has exerted an influence in that greater than it has had in other departments of our social and political systems. The assertion of this fact does not grow out of any undue partiality with regard to my native State. It is upheld by the testimony of those who were not at all times disposed to speak well of those who founded or controlled it. John Adams wrote to Chief-Justice Jay that the first constitution of New York excelled that of all other States. Attorney General Randolph, of Virginia, states that the contests of its colonies with the royal Governors were

conducted with signal ability, and he pronounced their protests and arguments to be the ablest expositions of the rights of popular representatives. The historian, Pitkins, of Connecticut, says that the resolutions of the New York Colonial Assembly were drawn with consummate ability; and "breathed a spirit more bold and decided than of any other colony." When we read the constitutions of the Western States, or the decisions of their courts, or note the Acts of their Legislatures, we see that our judiciary and our civil polity have exerted a marked influence in the newer sections of the Union. I have said that the first colonists were confronted at Albany by the Indian confederacy. We must not fall into the error of thinking that this merely involved a savage warfare, or led to a system of over-reaching ignorant savages after the fashion of our times. The Iroquois were not only the proud and powerful conquerors of a vast territory, but, by the testimony even of their enemies, they were a politic people.

D. La Potière, a Frenchman and an enemy, says in his history of North America: "When we speak of the Five Nations in France they are thought, by a common mistake, to be mere Barbarians, always thirsting for blood; but their characters are very different. They are indeed, the fiercest and most formidable people in North America, and at the same time are as politic and judicious as can well be conceived, and this appears from their management of all affairs which they have not only with the French and English, but likewise with almost all of the Indians of this vast continent."

Colden, alluding to their civil polity, says in 1747: "Each of these nations is an absolute republic by itself, and every castle in each nation is governed, in all public affairs, by its own sachems or old men. The authority of these rulers is gained by and consists wholly in the opinion the rest of the nation have of their integrity and wisdom. Their great men, both sachems and captains, are generally poorer than the common people, and they affect to give away and distribute all the presents or plunder they get in their treaties or in wars, so as to leave nothing to themselves. There is not a man in the members of the Five Nations who has gained his office otherwise than by merit. There is not the least salary, or any sort of profit annexed to any office to tempt the covetous or sordid, but on the contrary, every unworthy action is unavoidably attended with the forfeiture of their commissions; for their authority is only the esteem of the people, and ceases the moment that esteem is lost." To maintain peace with this powerful confederacy, to hold them in alliance against the Crown of

France, demanded prudence, courage and ability of a high order. These were developed to such degree that after the power of the Hollanders was overthrown, and during a century of struggle for supremacy on this continent, the British government mainly relied upon the influence of citizens of Albany to keep the Iroquois from going over to the French. In doing this they had not only to cope with the suspicion of the Indians, with the military power of France, but also with influence of French missionaries, who exhibited the most remarkable religious zeal, self-sacrifice and courage ever displayed on our continent. These did not content themselves with founding colonies in which their religious views should govern, but they boldly pushed their way through the vast wilderness of this continent to unknown savage tribes, with no protection save that which zeal and faith might give them in the eyes of those who looked upon all strangers as those whom they should destroy. Outstripping the march of armies, or the enterprise of trade in its greed for gold, they traversed North America to such extent, that the scenes of their labors were not in many cases reached by our pioneer settlers until the lapse of nearly a century. This zeal, this courage, that never shrunk from martyrdom, was exerted to detach the Iroquois from the British alliance. Many lost their lives in these attempts, suffering cruel torments; one was burned at the stake in the valley of the Mohawk. To contend against their efforts was no mean training in diplomacy and in statesmanship. Mainly through the influence of the citizens of Albany this was done. The Iroquois were taught to look upon the ground on which the new Capitol stands as a place sacred to keeping bright the chains of amity. With that great regard for usage which marks unlettered tribes, they called it the *ancient place of treaties*; and this term, in their minds, meant more than mere antiquity; it meant a higher degree of solemnity, and more lasting obligations in treaties made at Albany than elsewhere.

The diplomatic dealings with these tribes did not relate to the safety of Albany, or to the interest of the province of New York alone, but they concerned the safety and the interest of all the British colonies on this continent. Whoever will study the records of our State from the earliest days, will find that from Nova Scotia to Georgia, nearly one thousand miles, agents and officers of all the colonies resorted to Albany to gain the aid of its citizens in making peace with the Iroquois, or to obtain their help against other Indian tribes in warfare, or to get them to act as the defenders of the feeble settlements when menaced with destruction. When the Governor of Nova Scotia sought to check Indian war

upon its borders, agents were sent to this point. When King Phillip threatened the existence of the Puritans in New England, Massachusetts and Connecticut sent their commissioners here to invoke the aid of the Mohawks. When the Carolinas were reduced to desperate straits by Indian wars, their Governor sought in Albany to persuade the Five Nations to interpose in their behalf. Such events mark almost every year of colonial history, and their mere lists show clearly that this was the political center where consultations were held, and where the common interest and policy were considered. Not only did Indian affairs thus train men in jurisprudence, but the struggle between France and England did much to educate all the colonists. It concerned the greatest of all questions which have been settled on this continent, namely: Should its civilization, customs and laws be those of France or of England? The result for many years was uncertain. The warfare was not merely that of savage tribes, or of rude border men almost as wild, for both of the great powers sent here their disciplined armies, led by men of rank, skill and culture. The contest was not waged here alone, but it was connected with the ambitious designs of Louis the Great for the domination of Europe. His wars, which fill so many pages of history, and so deeply affected the rights and liberties of nations, were watched with interest by the colonists, who were made intelligent with regard to them by the events on their own soil, in which they bore a part. The battles of Marlborough and the victory at Blenheim concerned this continent more than that of Europe; for had the result been reversed, the British would have been confined to the narrow strip of seacoast lying between the Atlantic and the eastern slope of the Alleghenies. In that and all other foreign wars in which our country has been engaged, Albany was the point from which most of the forces were sent out. In the history of our country, from the first invasion of the French in 1665, that part of New York lying along Lake Champlain and the upper Hudson has been the field of strife and blood in fifteen campaigns; an equal number of expeditions have followed the course of the Mohawk. So important was the position of this province during the colonial period, that the Lords of Trade and Plantations urged the Crown, in 1721, to make it the seat of government of a Captain-General, who should have control over all the colonies in matters relating to military affairs and the interests of the King.

The colonial French war involved the combatants in greater cost of blood and money than the revolutionary contest. In many ways it

was more important in its influences. It determined the character of the civilization of this continent, its habits and usages. Its independence of Europe, whatever might be the result, was a matter of time. In 1757 Lord Chatham, determined to expel the French from this continent, placed Lord Amherst at the head of an army of fifty thousand men; a greater force than was employed against us at any time during the Revolutionary war. One division was sent up the valley of the Mohawk from Albany, another by the way of the upper Hudson through Lake Champlain, to Canada, while the British fleet forced its way up the St. Lawrence. This campaign ended in the capture of Quebec, the dramatic deaths of the rival heroes Wolfe and Montcalm, and the extinction of the French power on the eastern side of this continent. The cost of that war makes a large item in the present debt of Great Britain. More than ten millions of dollars were spent in fortifying Crown Point, on Lake Champlain, although the work was never finished.

This great war, from the nature of the struggle and from the contrast between the British and French governments constantly presented to the minds of the colonists, did much to educate the people with regard to public affairs. The center of military operations became the center of public knowledge; for at that day there was but little intercourse save that which grew out of the exigencies of war. All the aspects of the colonial history of New York show that its people were never limited in their views to the interests of their own province, but that the course of events at all times trained them to a knowledge of, and an interest in the affairs of other colonies.

But the lessons of war and diplomacy with foreign enemies fell short of the knowledge the people of this province gained in their contests with the royal Governors. Some of these, like Lord Cornbury, the cousin of Queen Anne; the colonial Governor, Clinton, an Admiral in the British navy and a relative of the Duke of Newcastle, then head of the British administration, were men wanting in capacity and integrity. All their efforts were directed to get money to mend their broken fortunes. New York had no charter which defined the rights of the colony. In their defence they were forced to plant themselves upon principles of jurisprudence, and were thus educated to clear ideas of the rights of governments, and of the governed. Their discussions can be read to-day with profit by those who care to learn where the political wisdom was gained which enabled our fathers to frame the government under which we live. Many years before the crown drove the colonies to united resist-

ance to its action, the delegates to the Colonial Assembly in New York had asserted and maintained the rights for which our fathers battled in the Revolution. The Act declaring what are "*the rights and privileges of their Majesty's subjects inhabiting within their province of New York*," passed in 1691, in the reign of William and Mary, is as clear and firm in tone as those which were asserted nearly one century later at the outbreak of the war for independence.

Besides the facts I have set forth which educated the people of this province with regard to their rights, to the policy of legislation and the duties of the judiciary, there was another which gave breadth and wisdom to our jurisprudence, beyond that exhibited elsewhere. While the Hollanders of that day did not come up to our ideas of toleration, they were in advance of other nations in this respect. They were also free from the prejudices against the people of other countries, which was a marked feature of their times; and particularly with the English. We are apt to charge upon the theology of the Puritans of New England much of the harshness that was due to their nationality. When Theodore Ward, one of the authors of the Code of Liberty of Massachusetts, in his book entitled, "Letters from the Simple Cobbler of Agawam," said that he hated religious toleration which make a hell upon earth, and that he hated to have foreigners come to dwell in the land," it was the Englishman more than the Puritan that spoke.

The same spirit was shown by that race in other colonies. Even in Maryland, where the first Catholic proprietor, by his charter, granted religious freedom to all; when those who differed from his religious views gained power they persecuted those of his creed. Nor was this hostility shown alone towards those differing from them in faith: the English in Carolina for a long time protested against giving Huguenots the rights of citizenship or of holding property. The same spirit involved them in constant wars with the Indian tribes. The rule that English interests and not the rights of others should regulate action, has not lost its power. It involves Great Britain in constant wars in all quarters of our globe, and it convinces the British people that they are wronged and imposed upon by the most remote, feeble and ignorant tribes. If the English instead of the Hollanders had first settled Albany it is doubtful if they would have kept an alliance with the Iroquois. If they had failed to do this they would have lost their claim to the country drained into the St. Lawrence and Mississippi; for their only offset to the French right of discovery of these rivers was the title of the Iroquois to the

regions in dispute. We who are of English descent, and who are proud of our lineage, have reason to rejoice that the Hollanders first occupied this State. Their wide commerce had brought them in contact with all races. Their wealth and power grew out of intercourse with others. They welcomed all incomers to their territory. This drew to this province a greater variety of nationalities than can be found in the histories of the foundations of other States. This made our population cosmopolitan; and beyond all other facts gave to our jurisprudence its superiority. It saved us from provincial prejudices, and from the narrowness engendered in the minds of those who hear but one side of questions, and witness but one phase of teaching. The influence of this fact has not been limited to our State. Its people, holding the gateways into the interior of our continent, have welcomed all classes of immigrants. It is our faith that the same natural features and diversity of lineage and creed that have made New York the Empire State will, on a grander scale, give to our country a higher civilization than the world has yet seen. The history of this State enables us to forecast the future of our union. Its great rivers and lakes and valleys will ever make living channels of commerce. Its varied climate and productions will keep alive active and constant intercourse and exchange among its people. Its differing creeds and its varied lineages will teach a larger liberality and more generous sympathies than exist on smaller theatres with narrower ranges of thought, and more limited views of social or political subjects.

Since the independence of our country, the natural features of New York and the character of its population have been potent, not only in promoting its own growth and greatness, but that of our whole country. Its first constitution showed a greater knowledge of jurisprudence than was exhibited elsewhere. It is a striking, and I think an unparalleled fact in the history of constitutions that upon the Committee of thirteen appointed to draft that instrument, there were men representing no less than six nationalities. This diversity of races which, from the earliest day to the present time, marks the list of those who have filled the office of Judges, Legislators and Governors, has had a great influence in shaping the civil polity of our State.

While the basis of our civilization is English, it has been re-inforced and liberalized by other elements. Our great country will not be cut up as Europe is into smaller districts, whose people are made strangers by differences of languages and laws. On our continent,

in the future, with its vast population, all forms of merit will gain higher rewards, and the applause of greater multitudes than elsewhere. Our literature will receive a wider support, and will draw its inspiration from the legends, the histories, the aspirations, not of one, but of many nationalities. The position of New York, with its command of the harbor which first welcomes the incomers from Europe, and of the great pathways through which they seek their homes in the interior, has done much to shape our social organization, and to hold in check the prejudices which sometimes show themselves in the minds of those who are only familiar with social ideas which prevail outside of the great theatres of action.

The most important subjects of our legislation also relate to facts which concern other States as well as our own. These have always kept alive in the minds of our people their relationship to the interests and prosperity of other parts of our Union. We have a striking proof of this in the history of our internal improvements. When we were inferior to Virginia and Massachusetts in numbers, wealth, and power; when the hardy settlers in the then wilderness of Western New York were impoverished because there was no way of reaching markets with their products; when in the days of our poverty we undertook the work of uniting the great lakes with the harbor of New York, which was then deemed, not only in our own country, but in Europe, one of the bold enterprises of the world, it was not urged alone upon the ground of our necessities, or the gain it would bring to ourselves, but rising above local interests, in the preamble of the Act by which this State entered upon this great work, these words were used: "Whereas—navigable communication between Lakes Erie and Champlain and the Atlantic ocean by means of canals connected with the Hudson river will promote agriculture, manufactures and commerce, mitigate the calamities of war and enhance the blessings of peace, consolidate the Union, and advance the prosperity, and elevate the character of the United States; And Whereas, it is the incumbent duty of the people of this State to avail themselves of the means which the Almighty has placed in their power for the production of such signal, extensive and lasting benefits to the human race," etc. These grand, patriotic considerations, and not merely local gain, were urged by leading men as reasons for taking the hazard of an undertaking deemed by many too great for our resources.

Acting upon this wise and enlarged policy of identifying ourselves with the common interest of our Union, although Congress and the

Legislatures of other States refused to aid the project, our State has not sought, like the robbers upon the Rhine, to make its command of the avenues of commerce the means of extorting tribute from those who have used our channels, but it has reduced tolls upon its canals to the lowest point, and has thrown off from our lines of railroads the income which, by charters, were to be paid into the treasury of the State. It cannot be charged against New York that it has ever sought to build up any of its special interests, or to support any of its peculiar industries by taxation levied upon the people of this Union.

It has never faltered in the support of the General Government in its war with foreign enemies, although its territories were most exposed to attack, and most frequently the scenes of battle and of bloodshed. At the outset of the revolution, although New York of all the colonies had been the first, the most clear and persistent in asserting its rights through a long series of years, the British King hoped its people would not be united in resistance to his authority. The patronage of the Crown and the expenditures for armies and free grants of land had built up strong interest in its favor. But its great reliance was upon the exposed condition of the province in the case of war. Its western sections and the valley of the Mohawk were filled with Indian tribes governed by the agents of the King. These were ready to kill without regard to age, sex or condition. Lake Champlain and the upper Hudson made a pathway from Canada into the heart of the province, and British fleets could control the harbor of New York. The patriots of the colony had been taught by the past that when they took up arms they were to suffer the horrors of Indian warfare and the calamities of invading armies. They knew the contest must turn upon the control of their territories, and that war could never cease here until liberty was won or lost. Other sections might at times be invaded, but neither party could withdraw its forces from the banks of the Hudson while the conflict lasted. They did not shrink from perils clearly foreseen. They were ready to encounter savage hordes, disciplined armies, or domestic foes. In no other quarter was the contest so fierce and unrelenting. It did not merely demand the enlistment of men to fight upon the battlefields, but the exposure of their homes and their families to the torch, the tomahawk, and the brutality of hireling soldiers. The massacres at Cherry valley, along the Mohawk, and on the hills which border it, show the terrible sufferings in the homes of those who lived upon that frontier. While New York and New Jersey were the great centers of the revolutionary struggle, there are no shadows upon the patriotism of

either. Adherents to the Crown increased the dangers of the patriots and in some cases caused the destruction of their lives; but this added to the lustre of their services, and gave a higher value to their patriotism by the demands thus made upon their vigilance and energy.

In the war with Great Britain in 1812 New York was ardent in the support of the cause of our country, its rights and its honor. While elsewhere there were murmurs of discontent, and threats of resistance to measures for filling the ranks of our armies, this State was resolute in the support of the policy of our government, although it led to the invasion of its territories by the same pathways which had been traversed by hostile forces on so many occasions. In the sad civil war New York sent to the support of our Government more men in proportion to its population than any of the States bordering on the Atlantic, and in proportion to its enrollment, more than any in the Union. In some instances, single Congressional districts furnished quotas greater than those of other States with more than twice their population and representation.

This is shown by one of the calls made by the Government for soldiers.

The average ratio of enrollment to the male population in Western States was	19 per cent.
In New Jersey,	20 do.
In Pennsylvania,	18 $\frac{3}{4}$ do.
In New England,	17 do.
In State of New York	22 do.
Massachusetts, with ten Congressmen and a population of 1,231,006, had to furnish under a call for 300,000 men	15,126
The first nine Congressional districts of the State of New York, with a population of 1,218,949, were called upon for	25,166
The quota of Vermont and New Hampshire, with a united population of 641,171, and six Representatives in Congress and four Senators, was	7,099
The quota of two Congressional districts in New York, the 4th and 6th, with a population of 283,229, was	7,628

Although these excessive demands were modified, they were still larger than the calls made on other States.

The policy of our State with regard to education has been enlarged and liberal. It has sought by all methods to give knowledge to all classes, and to carry learning in its widest forms into all sections of our State, to enable all, at the least cost, to gain the benefits of higher education; so that those who could not themselves follow all branches of science, or literature, could reap their benefit by association with those who, having had greater advantages, would diffuse them to the mass of community, as electricity passes from one object to another, in ways subtle and yet perfect in results. The early men of our State saw the wants and advantages of our social structure and our equal-intercourse. They felt that the teachings of the pulpit and press, the lecturer's stand and speaker's rostrum, could be brought into action as means of instruction, and they put upon our statute book a grand declaration "that the University of the State of New York is hereby created." These few words meant that our whole territory, not some favored spot, was to be a seat of learning. It taught the grand truth that learning in its best estate is the right of all who seek it, and should be placed within the reach of all.

It will add to the interest with which the new Capitol, just completed, will be viewed, if it shall be looked upon not only with regard to its size, its proportions and adornments; not only as a structure devoted to the legislation of a great State, but also in some degree as a memorial of its past history, and of the events of the place on which it stands, and of that wonderful system of valleys and hills of which it is the center. No man can enter its walls, devoted as they are to the grave and sacred purposes of legislation, without a fervent prayer that those who shall exercise in it the powers of Governors, of Judges and of Lawgivers, may equal the virtues and wisdom displayed by those who have heretofore held the high office of guarding the rights and promoting the welfare of the people of this State. But those who are to make or to administer laws are not to allow their aspirations for usefulness to be limited by the measures of the past. When they have studied its history, when they have seen the height in power to which New York has been lifted, they will be admonished that its motto demands still greater results at their hands, for the word *Excelsior* glitters upon the escutcheon of our State, teaching the duties of higher motives and more lofty patriotism than even those which have marked its past history.

HORATIO SEYMOUR

THE MAGAZINE OF AMERICAN HISTORY

WITH NOTES AND QUERIES.

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From Mr. SIDNEY HOWARD GAY, West New Brighton, Staten Island, N. Y.

I can say frankly after a year's reading, that I read your Magazine always with profit and pleasure. To a lover of books, the beauty of its "get up" is charming; to one who values the inside as well as the outside of books, the choice and treatment of subjects, the scholarly tone, and the real historical knowledge it contains, make it indispensable to every student of American History, of which there is still so much to be learned.

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* * I take pleasure in adding my testimony to that of the large number of historical students who have expressed so decided an opinion respecting the importance and value of the work to which the *Magazine of American History* is devoted.

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